

## **RMP Addendum 2019-1 Procedures For Highlands Redevelopment Area Designation**

Prepared by the State of New Jersey Highlands Water Protection and Planning Council in Support of the Highlands Regional Master Plan

March 2019

# **PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION**

## **1.1 PURPOSE AND SCOPE**

The Highlands Water Protection and Planning Act (N.J.S.A. 13:20-9) states that “prior to adoption of, and in preparing, the regional master plan the council may, in conjunction with municipalities in the preservation area, identify areas in which redevelopment shall be encouraged in order to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation area and this act, with the standards prescribed pursuant to section 32 of this act, and with the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act. Any areas identified for possible redevelopment pursuant to this subsection shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.” The Highlands Water Protection and Planning Act (N.J.S.A. 13:20-11h) further states that the RMP shall “identify areas appropriate for redevelopment and set appropriate density standards for redevelopment. Any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface.”

The Highlands Regional Master Plan (RMP) establishes the rationale and basis for designation of Highlands Redevelopment Areas. Such areas are intended to accommodate regional growth and development through reuse and redevelopment of previously developed areas, including brownfields, grayfields, and other underutilized sites. Broadly, the RMP seeks to concentrate residential, commercial, and industrial development/redevelopment in existing developed areas, focused on locations with limited environmental constraints and access to existing utility and transportation infrastructure. The RMP encourages establishment of redevelopment areas for both the Preservation Area and the Planning Area under specific circumstances relevant to each.

In the Preservation Area, Highlands Redevelopment Areas are limited to redevelopment sites and brownfield sites as designated by the Highlands Council, which are then eligible for waivers from the NJDEP Highlands Rules. In the Planning Area, Highlands Redevelopment Areas include redevelopment sites and brownfield sites using the Preservation Area definition as designated by the Highlands Council, which are then eligible for waivers from the goals, policies and objectives of the RMP. Infill is permissible in any of the Highlands Redevelopment Areas, as long as the area meets the designation requirements. Highlands Redevelopment Areas may be designated for the entire property, a portion of the property, or for collections of contiguous parcels in part or in whole.

# PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

## 2.1 DESIGNATION CRITERIA

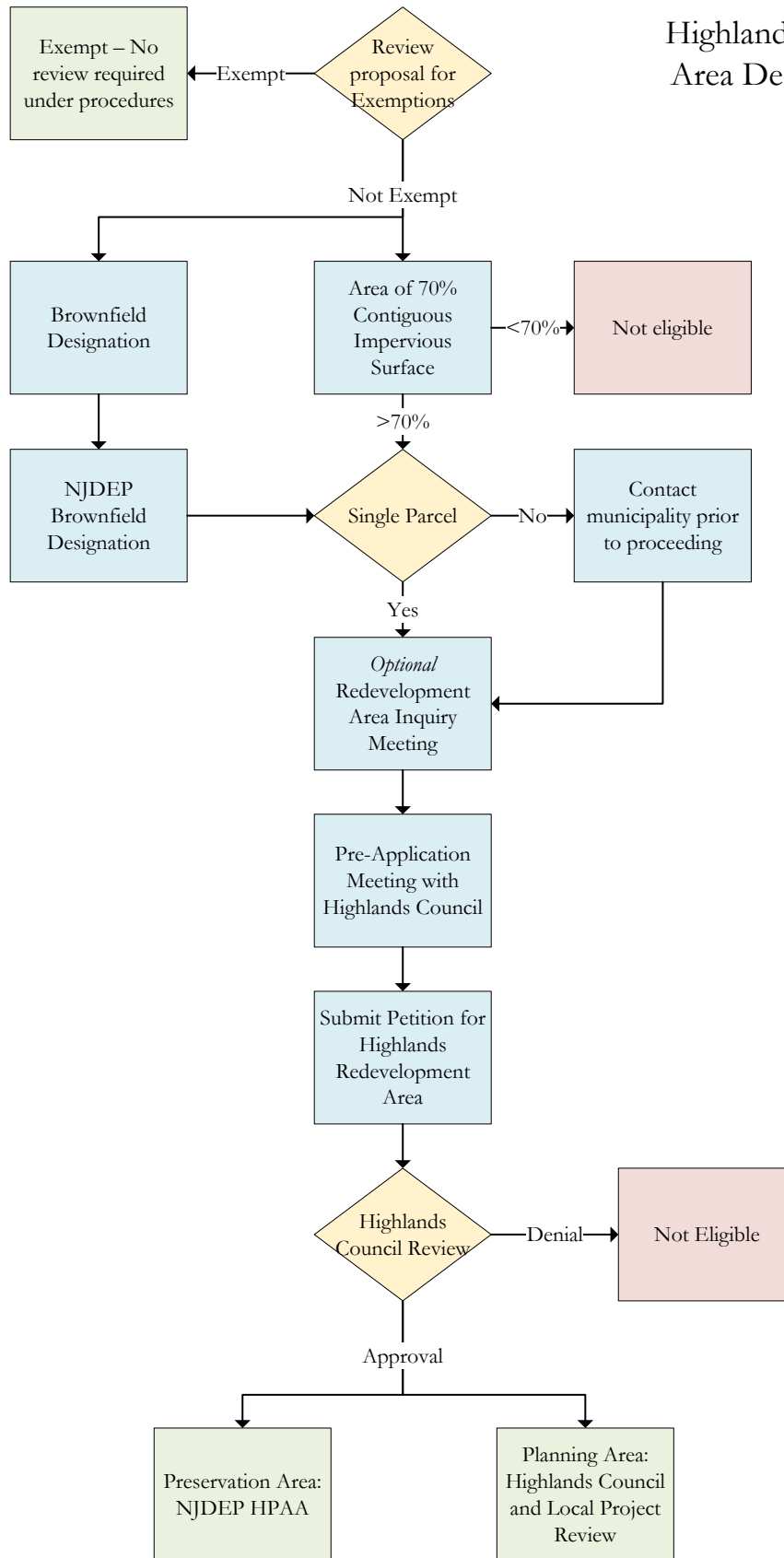
Any Highlands Redevelopment Area designation must be found by the Highlands Council to be consistent with the Goals, Policies and Objectives of the RMP. Findings of consistency, which may include Highlands Council conditions, are based upon the specific area in question and the information submitted as part of the application. Modification to the underlying information upon which any approval is based, or violation of any Highlands Council condition pertaining to such an approval, may result in the Highlands Council rescinding the Highlands Redevelopment Area designation.

The Highlands Water Protection and Planning Act N.J.S.A. 13:20-1 et. seq., (Highlands Act), the Highlands Regional Master Plan (RMP), and New Jersey Department of Environmental Protection (NJDEP) Highlands Rules (N.J.A.C. 7:38) mandate the application of protection standards for Highlands Resources in the Preservation Area. In certain instances, however, the Highlands Council can issue waivers from the strict provisions of the RMP and the NJDEP can issue a Highlands Preservation Area Approval (HPAA) with a waiver providing limited relief from specific standards of the NJDEP Highlands Rules. One waiver provided by the Highlands Act allows certain brownfield sites and previously developed areas to be redeveloped through Highlands Council waivers (RMP Policy 7G2) and through NJDEP approval of an HPAA with Redevelopment Waiver. For projects in the Preservation Area, the NJDEP Highlands Rules mandate that the Highlands Council first designate an appropriate Highlands Redevelopment Area.

Applications seeking designation of a Highlands Redevelopment Area must fall within one of the categories listed below in “a,” and are eligible for designation if they meet one of the criteria listed in “b.”

- (a) Applications may come before the Council under two scenarios:
  - 1. An individual applicant proposes a Highlands Redevelopment Area on one or more contiguous properties that the applicant controls; or
  - 2. A municipality proposes a Highlands Redevelopment Area with multiple contiguous properties under varied ownership or control.
- (b) The Highlands Council may identify an area as appropriate for redevelopment if the area consists of, either:
  - 1. A site that has received designation from the NJDEP as a Highlands brownfield pursuant to N.J.A.C. 7:38-6.6; or
  - 2. A site having at least 70% of its total area covered with lawfully existing impervious surface, as that term is defined in the Highlands Act, N.J.S.A. 13:20-3.

# Highlands Redevelopment Area Designation Process



## PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

### 3.1 GENERAL APPROACH

Prior to the preparation of any application materials, prospective applicants are strongly encouraged to meet informally with Highlands Council staff to discuss the feasibility of a Highlands Redevelopment Area designation. An optional redevelopment area identification inquiry meeting allows Highlands Council staff to provide guidance on the viability of a designation and on the application requirements for a formal application.

Before submission of any Highlands Redevelopment Area designation application, Highlands Council staff also reviews the proposal to determine whether the intended development project may be eligible for an exemption from the Highlands Act (N.J.S.A. 13:20-28). In the event of exemption applicability or the availability of any other, simpler alternative to a Redevelopment Area designation, staff advises the applicant of the options and the application may take a different path.

Barring the availability of any alternative approach, applicants may petition the Highlands Council for Highlands Redevelopment Area designation for cases involving either, an NJDEP designated Highlands brownfield, or an area consisting of 70% or more lawfully existing impervious surface. As indicated in the preceding flow chart, the formal process requires a pre-application meeting, submittal of an application, review by the Highlands Council staff, issuance of a recommendation to the Highlands Council, and finally, a determination by the Highlands Council with provision for public review and comment during a public hearing. Upon approval of a Highlands Redevelopment Area designation in the Preservation Area, an application for Highlands Preservation Area Approval with Redevelopment Waiver may be submitted to the NJDEP for consideration under N.J.A.C. 7:38-6.1.

Factors to be considered during the process of establishing a Highlands Redevelopment Area boundary include:

(a) **Ownership and contiguity of parcels:**

1. The Highlands Redevelopment Area may be:
  - a. Part of one parcel of land;
  - b. All of one parcel of land;
  - c. Part or all of multiple contiguous parcels in common ownership or control; or
  - d. Part or all of multiple parcels not in common ownership or control for which a combined Highlands Redevelopment Area application has been submitted by the municipality.
2. Where a municipality submits an application for multiple properties not in common ownership or control, all of the individual property owners must be notified by certified mail and copied on the Highlands Redevelopment Area application.
3. Highlands Redevelopment Areas shall be drawn such that the associated (70%) impervious surface areas or Highlands brownfield designation shall be within one contiguous boundary.
4. Highlands Redevelopment Areas shall be located solely in either the Planning Area or Preservation Area. A Highlands Redevelopment Area may not include areas of both the Planning Area and Preservation Area.

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- (b) **Compatibility with Regional Master Plan (RMP).** The Highlands Council may determine that a proposed Highlands Redevelopment Area is inappropriate, based on the likelihood that the designation would promote redevelopment incompatible with the goals of the Highlands Act and the RMP.
- (c) **Extent to which proposed area includes new development.** The Highlands Council may determine that a proposed Highlands Redevelopment Area is inappropriate, based on the fact that the proposed redevelopment is not focused in previously disturbed areas, may disturb Highlands Resources, and/or would promote new development incompatible with the goals of the Highlands Act and the RMP.
- (d) **Possible waiver of certain rules.** For projects within Highlands Redevelopment Areas, the Highlands Council may grant waivers from the strict application of the standards of the RMP (Policy 7G2). In the Preservation Area, the NJDEP may find that a waiver from strict application of the Highlands Water Protection and Planning Act Rules under N.J.A.C. 7:38-6.6 and 6.7 is feasible, but based on impacts to Highlands Resources protected by the RMP, the NJDEP may not be able to grant the waiver.
- (e) **Secondary impacts.** The Highlands Council and NJDEP also may restrict aspects of a proposed project to avoid secondary impacts (N.J.A.C. 7:38-6.4(i)).
- (f) **Deed restrictions.** The Highlands Council, in conjunction with the NJDEP through the HPAA process, will require conservation restrictions on undeveloped portions of an affected property or properties within a Highlands Redevelopment Area.

### 4.1 PRE-APPLICATION MEETING

Pre-application meetings with Highlands Council staff are required in conjunction with any application for a Highlands Redevelopment Area designation. These meetings allow for preliminary staff review of proposed designations, and provide opportunity for discussion and sharing of information pertinent to such proposals, including specifics as to boundary lines, implications for future development of included properties, Highlands resources, conservation restrictions, and the criteria for Highlands Council approval.

(Please note that as with all Highlands Council applications, there is no fee associated with this meeting and this pre-application meeting is not the same as the NJDEP pre-application meeting required for an application in the Preservation Area for an HPAA with Redevelopment Waiver.)

The Highlands Council may, as circumstances deem appropriate, invite other interested parties to the formal pre-application meeting, including municipal and county planning representatives, and representatives of the NJDEP.

Any statements or recommendations made by any representative of the Highlands Council in the context of a pre-application meeting shall be considered non-binding on the prospective applicant, the constituent municipality and county, and the Highlands Council, and shall confer no legal rights.

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Based on the nature and extent of Highlands Resources proposed to be included in the Redevelopment Area, the Highlands Council staff may suggest an informational meeting with the NJDEP prior to the public hearing at the Highlands Council. (This meeting is not considered to be the NJDEP HPAA required Pre-Application meeting.)

### 4.1.1 Pre-Application Submittal Requirements

Prior to the pre-application meeting, the applicant shall submit relevant information for review by the Highlands Council, including but not limited to the items listed below. Highlands Council staff may waive submission of any item on request, based on the specific details of the proposed Highlands Redevelopment Area.

- (a) A description of the proposed Highlands Redevelopment Area, including street addresses and block and lot number(s) for each included parcel; ownership information for each property; and copies of property owner notifications (provided pursuant to section 3.1(a).
- (b) A plan of the proposed Highlands Redevelopment Area showing:
  - 1. Boundaries of proposed area;
  - 2. Existing buildings, structures, and impervious surfaces within the proposed area;
  - 3. Most recently available aerial photography of the area;
  - 4. Any Highlands resources<sup>1</sup>.
- (c) Acreage of the proposed Highlands Redevelopment Area and of the affected properties.
- (d) Existing local zoning and land use of the properties.
- (e) A description of existing structures on the subject site, including any historic structures.
- (f) A list of any encumbrances on the properties comprising the proposed Highlands Redevelopment Area, including but not limited to easements, deed restrictions, and covenants.
- (g) A conceptual site plan of the proposed project or uses to be located within the proposed Highlands Redevelopment Area.
- (h) A statement or document demonstrating how the subject site conforms to section 2.1(b), as above, including but not limited to the following:
  - 1. For a site which includes at least 70% contiguous impervious surface:
    - i. A delineation of the existing impervious surface supporting the minimum 70% calculation.

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<sup>1</sup> Highlands Resources can be preliminarily identified using the Highlands Council's interactive map located at: [www.nj.gov/njhighlands](http://www.nj.gov/njhighlands). Additional resource identification documents such as Letters of Interpretation (LOI) and Highlands Resource Area Determinations (HRAD) may be used as appropriate.

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- ii. Calculations showing that the proposed boundary complies with the 70% minimum requirement.
  - iii. Photographs of the existing impervious surface areas.
- 2. For a Highlands brownfield site:
  - i. A copy of the Highlands brownfield designation from the NJDEP.
  - ii. A parcel plan indicating the extent of the Highlands brownfield designation.
- (i) In addition to hard copies of all information, all plans and maps are requested to be submitted in accordance with the Highlands Council's digital submission requirements (see Appendix B).

### 5.1 APPLICATION FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

- (a) All applications for a Highlands Redevelopment Area designation shall be submitted to the Highlands Council in writing and signed by the owners and applicant or a duly authorized representative of the applicant.
- (b) All information shall be submitted in the form of one hard copy and one electronic copy.
- (c) Any site plans shall be submitted in accordance with the Highlands Council's digital submission standards (see Appendix B).
- (d) An application for a Highlands Redevelopment Area designation shall have satisfied each of the application requirements for Pre-Application Meeting under section 4.1.
- (e) All of the information outlined in the following three sections (5.1.1, 5.1.2 and 5.1.3) as appropriate shall be submitted.

#### 5.1.1 Submission requirements for a site that includes at least 70% lawfully existing contiguous impervious surface where the application involves an individual property or group of properties under the applicant's sole control

- (a) Site plan and calculations delineating the existing impervious surface supporting the minimum 70% calculation, as prepared by a a qualified professional (such as a New Jersey licensed professional engineer, land surveyor, or planner).
- (b) Ground-level color photos either georeferenced or with the location of the photos indicated on a plan.
- (c) Conceptual site plan showing the proposed development of the project.
- (d) Incorporation of Low Impact Design components into stormwater management plan for the proposed development (see NJDEP Stormwater Best Management Practices Manual).



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- (e) Draft notice to property owners, the municipal clerk, the county planning board and public utilities<sup>2</sup> of Highlands Council public hearing:
  - 1. The applicant shall prepare a draft notice for all owners of real property within 200 feet of the boundary of the proposed Highlands Redevelopment Area and that a Highlands Council public hearing will be held to review the site for designation;
  - 2. A model form of notice is available in Appendix F;
  - 3. No notice is to be sent at this time. This is only a draft notice. The full noticing requirements can be found under section 6.1.

### 5.1.2 Submission requirements for NJDEP designated Highlands Brownfield Site

- (a) Copy of a Highlands brownfield designation from the NJDEP including all associated and referenced information submitted to, or on file with, the NJDEP that was used in support of the Highlands brownfields designation (this may be submitted in digital form only, no hard copy is required).
- (b) A site plan prepared by a a qualified professional (such as a New Jersey licensed professional engineer, land surveyor, or planner) indicating the proposed development of the site and extent of the designated Highlands brownfield area.
- (c) A letter from the NJDEP or a Licensed Site Remediation Professional (LSRP) stating that the remedial alternative(s)/closure(s) would support the proposed redevelopment land use.
- (d) For a Track One Highlands brownfield:
  - 1. As of May 9, 2005, proof that the applicant is or was remediating or closing, or has completed remediation or closure of a landfill that ceased operation before January 1, 1982 in accordance with:
    - i. A Closure Plan approved by the Department, and issued pursuant to the Solid Waste rules, N.J.A.C 7:26-2A.9; and
    - ii. A Remedial Action Workplan approved by the Department or by a LSRP, and issued pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E-6; or
    - iii. The applicant is currently implementing an approved Closure and Post-Closure Care Plan, or has completed an approved Closure and Post- Closure Care Plan, for a landfill that ceased operation on January 1, 1982, or later, pursuant to the Solid Waste Rules, N.J.A.C 7:26-2A.9.
- (e) For a Track Two Highlands brownfield:

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<sup>2</sup> Public utilities are as defined in the Municipal Land Use Law N.J.S.A. 40:55D-12h, “a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L. 1991, c.412 (C.40:55D-12.1)

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1. Copy of the Final Remediation Document;
  2. Certification that no discharge of a contaminant has occurred on the site since the final remediation document was issued by the NDJEP.
- (f) For a Track Three Highlands brownfield:
1. Documentation that remediation is being conducted pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, or the Industrial Site Recovery Act rules, N.J.A.C. 7:26B, as applicable, necessary to obtain a final remediation document pursuant to N.J.A.C. 7:26C-6.
- (g) For projects in the Preservation Area, any additional items required by NJDEP as listed in NJDEP's Highlands Preservation Area Approval (HPAA) Pre-Application Checklist (NJDEP reviews the HPAA with Redevelopment Waiver application, but only after the Highlands Council designates the Highlands Redevelopment Area). A copy of NJDEP's HPAA Pre-Application Checklist can be downloaded from NJDEP's website at [www.nj.gov/dep/landuse/forms.html](http://www.nj.gov/dep/landuse/forms.html) (click "Highlands Program" tab).
- (h) Draft notice to property owners, the municipal clerk, county planning board, and public utilities<sup>2</sup> of Highlands Council public hearing:
1. The applicant shall prepare a draft notice for all owners of real property within 200 feet of the boundary of the proposed Highlands Redevelopment Area that a Highlands Council public hearing will be held to review the designation;
  2. A model form of notice is available in Appendix F;
  3. No notice is to be sent at this time. This is only a draft notice. The full noticing requirements can be found under section 6.1.

### **5.1.3 Additional requirements for municipal applications for Highlands Redevelopment Area designations that include multiple contiguous parcels under separate ownership or control**

- (a) Only a municipality may apply for a Highlands Redevelopment Area that includes more than one contiguous parcel, where such parcels are under separate ownership or control.
- (b) The municipality shall include a list of all parcels to be located either wholly or partially within the Highlands Redevelopment Area. The list shall include:
1. Block and lot designations;
  2. Street addresses;
  3. Current municipal zoning designation;
  4. Property class tax code;
  5. Current owner(s) and mailing address.

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- (c) The application shall include a delineation of the existing impervious surface supporting the minimum 70% calculation prepared by a qualified professional (such as a New Jersey licensed professional engineer, land surveyor, or planner). This calculation shall be broken down by the individual block and lot numbers and shall be referenced to mapping showing the location of the impervious surface areas.
- (d) For each parcel, the municipality shall submit documentation to the Highlands Council from a qualified professional (such as a New Jersey licensed professional engineer, land surveyor, or planner) indicating the extent to which the impervious surface footprint is permitted to be expanded under the municipal regulations in place at the time of application for a Highlands Redevelopment Area. The documentation shall indicate any specific redevelopment area conditions for each block and lot in the proposed Highlands Redevelopment Area.
- (e) Ground-level color photos of the site(s) either georeferenced or with the location of the photos indicated on a plan.
- (f) Notice to property owners, the county planning board, and public utilities<sup>2</sup> of proposed municipal resolution authorizing the submission of the Highlands Redevelopment Area application:
  - 1. The municipality shall prepare a notice for all owners of real property, the county planning board, and public utilities<sup>2</sup> to be located wholly or partially within the proposed Highlands Redevelopment Area boundary;
  - 2. A model form of notice is available in Appendix D;
  - 3. The notice shall include a map of all properties (designated by block/lot) proposed to be included, and shall inform the property owners that the future development potential of included parcels may be affected by the application.
- (g) Municipal Resolution authorizing submission of application. A model resolution is available in Appendix E. The resolution must include a listing of all the properties to be included in the Highlands Redevelopment Area.
- (h) Copy of draft master plan amendment required by section 7.1.
- (i) Where development plans exist for the development of individual properties, copies of any such plans, including any stormwater management plans or other such information must be submitted.
- (j) Where no development plans currently exist, the municipality shall submit existing or proposed master plan and zoning ordinance language detailing the maximum development that would be permitted on the sites in question.
  - 1. Any approval under this section shall be conditioned upon future development incorporating Low Impact Design components into a stormwater management plan for the proposed development.

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2. For projects in the Preservation Area, at the time of each applicant's submittal to the NJDEP for an HPAA, the Highlands Council shall review the HPAA application and prepare a report to the NJDEP detailing the application's conformance with the Highlands Redevelopment Area designation and conditions thereof.
- (k) Draft notice to property owners, county planning board, and public utilities<sup>2</sup> of Highlands Council public hearing:
1. The applicant shall prepare a draft notice for the county planning board, public utilities<sup>2</sup>, and all owners of real property within 200 feet of the boundary of the proposed Highlands Redevelopment Area that a Highlands Council public hearing will be held to review the designation;
  2. A model form of notice is available in Appendix F;
  3. No notice is to be sent at this time. This is only a draft notice. The full noticing requirements can be found under section 6.1.
  4. This draft notice is separate and apart from the noticing requirements of the municipal resolution for application found above.

### 6.1 PRELIMINARY DETERMINATION

- (a) Highlands Council staff shall determine if the application for a Highlands Redevelopment Area designation is administratively complete in accordance with section 5.1 above.
- (b) For any application that is deemed administratively complete, the Highlands Council shall review the proposed Highlands Redevelopment Area and any proposed development against the applicable Highlands RMP Goals, Policies and Objectives.
- (c) The Highlands Council staff shall prepare a draft report, including a preliminary consistency determination of the Highlands Redevelopment Area and the future development proposed therein with the goals, policies, and objectives of the RMP, with recommendations to approve, deny, or approve with conditions the proposed Highlands Redevelopment Area, based on the criteria set forth below:
  1. A finding that the proposed Highlands Redevelopment Area complies with standards i or ii and iii as follows:
    - i. At least 70 % of the proposed Highlands Redevelopment Area is existing impervious surface; or
    - ii. The site is a Highlands brownfield designated by NJDEP.
      - Any designation shall be conditioned upon the receipt of documentation for the appropriate Track One, Two or Three brownfield as provided in N.J.A.C 7:38

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- Any designation shall be further conditioned upon the specific conditions and remediation outlined in the Highlands brownfield designation and referenced documentation from the NJDEP.
  - iii. The proposed Highlands Redevelopment Area and the associated impervious surface areas or Highlands brownfield designation is within one contiguous Highlands Redevelopment Area boundary, located solely in either the Planning Area or Preservation Area.
  - 2. The proposed Highlands Redevelopment Area and proposed development will not result in or contribute to impairment of any Highlands Resource located on or adjacent to the Highlands Redevelopment Area. This may be accomplished either through exclusion of such areas, through conditions on the designation that ensures their protection, or substantial minimization of disturbance of those resources.
  - 3. The proposed Highlands Redevelopment Area and proposed development are found to be consistent with the resource protection and Smart Growth standards of the Regional Master Plan and with the intent and purpose of the Highlands Act.
  - 4. There is sufficient water supply and wastewater capacity to serve the proposed development.
  - 5. Such other unique or mitigating criteria as required by the Highlands Council to comply with the Goals, Policies and Objectives of the Highlands Act and the RMP.
  - 6. The proposed Highlands Redevelopment Area and proposed development are compatible with existing municipal zoning or the Highlands Redevelopment Area designation is conditioned upon municipal rezoning.
- (d) For projects in the Preservation Area, Highlands Council staff shall consult with the NJDEP Division of Land Use Regulation regarding the draft recommendations.
- (e) Highlands Council staff shall provide to the public and the applicant the draft report and recommendations prior to presenting the recommendations to the Council, and shall solicit comments for a period of not less than 30 days. This will afford the public and the applicant an opportunity to provide additional data and information to the staff prior to a final Council determination.
- (f) Highlands Council staff shall present the findings with recommendations to the Highlands Council to approve, deny, or approve with conditions, with public notice on the Council's website at [www.nj.gov/njhighlands](http://www.nj.gov/njhighlands) at least 30 days before the Council meeting at which the recommendation will be considered.
- (g) Notice Requirements
- 1. Individual Applicants:
    - i. Notice to Municipal Clerk, County Planning Board, and Public Utilities<sup>2</sup>: The applicant shall provide a copy of the application (and associated submission materials) and a copy of the legal notice of the Highlands Council public hearing on the application to the municipal clerk, county planning board, and public utilities<sup>2</sup> at least 30 days before the Council meeting at which the recommendation will be considered.
    - ii. Newspaper Notice: The applicant shall provide public notice of the Highlands Council public hearing on the application and the availability of the Final

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Report by publication of a legal notice in the newspaper of record for the municipality where the project is located, at the petitioner's expense, at least 30 days before the Council meeting at which the recommendation will be considered.

iii. Notice to Surrounding Property Owners:

- The applicant shall provide public notice of the Highlands Council public hearing on the application and the availability of the Final Report at least 30 days before the Council meeting to the owners of all real property as shown on the current municipal tax duplicates, located in the State and within 200 feet in all directions of the property that is the subject of such hearing.
- Notice shall be given by mailing a copy of the notice by certified mail to the property owner at his or her address as shown on the current tax duplicate at least 30 days before the Council meeting. A model form of notice is available in Appendix F.

2. Municipal Applicants:

- i. Notice to county planning board and local utility authorities: The applicant shall provide a copy of the application (and associated submission materials) and a copy of the legal notice of the Highlands Council public hearing on the application to the county clerk at least 30 days before the Council meeting at which the recommendation will be considered
- ii. Where the application is made by a municipality for a Highlands Redevelopment Area with multiple contiguous properties under separate ownership or control, the municipality (or authorized agent) shall provide notice of the Highlands Council public hearing and the availability of the Final Report to the owners of all real property wholly or partially included within the proposed Highlands Redevelopment Area and to the owners of all real property as shown on the current municipal tax duplicates, located in the State and within 200 feet in all directions of the proposed Highlands Redevelopment Area. Such notice shall be provided at least 30 days before the Council meeting at which the recommendation will be considered.
- iii. Notice shall be given by mailing a copy of the notice by certified mail to the property owner at his or her address as shown on the current tax duplicate. A model form of notice is available in Appendix F.
- iv. Newspaper Notice: The applicant shall provide public notice of the Highlands Council public hearing on the application and the availability of the Final Report by publication of a legal notice in the newspaper of record for the municipality where the project is located, at the petitioner's expense, at least 30 days before the Council meeting at which the recommendation will be considered.

(h). Proof of Notice. Upon completion of any public noticing requirements the following shall be submitted to the Highlands Council:

- 1. Copy of form of notice used;
- 2. Property owner notification list;
- 3. An affidavit of proof of service;
- 4. Proof of newspaper publication.

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### 7.1 FINAL DETERMINATION

- (a) The Highlands Council shall approve, approve with conditions, or deny an application requesting a Highlands Redevelopment Area identification within 90 days of deeming the application complete, or for good cause, within such additional period of time as the Highlands Council shall notify the applicant (in writing) is required to complete its review. Should the 90 days lapse with no action being taken by the Highlands Council, the application shall remain active, and no automatic approval of the application shall occur. The Highlands Council shall notify the applicant in writing stating the reasons for the delay and, if applicable, when the application will be considered by the Council.
- (b) In cases where the Highlands Council determines that a proposed Highlands Redevelopment Area is appropriate for redevelopment, the final determination may include specific conditions to restrict any activities that might otherwise occur as a result of the final determination. These conditions may include, but are not limited to: timetables and deadlines within which certain development milestones must be reached, deed restrictions, resolutions from a municipal utilities authority restricting sewage flows, physical limitations on sewer lines and/or pump stations and other mechanisms necessary to preclude secondary impacts that may otherwise result from the identification of the Highlands Redevelopment Area.
- (c) Municipal Master Plan Amendment Required:
  - 1. In the case of applications involving multiple properties under separate ownership or control, the municipality shall be required as a condition of approval of the Highlands Redevelopment Area, to amend the municipal master plan to identify the Highlands Redevelopment Area and to limit future development to the footprint established in the Highlands Redevelopment Area.
  - 2. Any amendments shall be adopted in accordance with the standards of the New Jersey Municipal Land Use Law (N.J.S.A. 40:55-1 et seq).
- (d) Specific Conditions of Approval:
  - 1. The approval of a Highlands Redevelopment Area designation by the Highlands Council shall be based upon the specific conditions of the property at the time of the approval and those specific details provided as part of the application.
  - 2. Should those conditions change, the Highlands Council may reconsider the approval to determine whether the conditions upon which the approval was based are still valid and the designation may be subject to rescission by a vote of the Highlands Council.
  - 3. Should the Highlands Council consider any rescission of a Highlands Redevelopment Area based on any change in the approval conditions, the applicant and current property owner shall be provided with 60 days advance notice to be provided an opportunity to be heard at the scheduled Highlands Council public hearing.
- (e) Duration of Highlands Redevelopment Area Approval
  - 1. For projects in the Preservation Area:

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- i. An applicant shall have 5 years from the date of the Highlands Council's approval to receive approval of an HPAA with Redevelopment Waiver from the Department of Environmental Protection in accordance with N.J.A.C. 7:38-6.6 or N.J.A.C. 7:38-6.7.
  - ii. If after the end of the 5 year period the applicant has not received approval of an HPAA with Redevelopment Waiver from the NJDEP, the Highlands Council's approval shall automatically expire;
  - iii. Prior to expiration, an applicant may receive a one year extension from the Highlands Council upon showing of good cause.
  - iv. After receiving approval of an HPAA with Redevelopment Waiver from the NJDEP, the duration for the Highlands Council's Highlands Redevelopment Area Designation shall coincide with the HPAA with Redevelopment Waiver issued by NJDEP (including any applicable extensions approved by the NJDEP).
  - v. The Highlands Council may, upon a finding at a public hearing, provide for an alternative duration which shall be incorporated into any resolution of approval.
2. For projects in the Planning Area:
  - i. An applicant shall have 5 years from the date of the Highlands Council approval to secure any permits that require prior Highlands Council review and approval.
  - ii. Prior to expiration, an applicant may receive a one year extension from the Highlands Council upon showing of good cause.
  - iii. The Highlands Council may, upon a finding at a public hearing, provide for an alternative duration which shall be incorporated into any resolution of approval.



# **PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION**

## **APPENDIX A**

### **NJDEP'S HPAA PRE-APPLICATION CHECKLIST**

(Available at: [www.nj.gov/dep/landuse/download/hc\\_005.pdf](http://www.nj.gov/dep/landuse/download/hc_005.pdf))

# PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

## APPENDIX B

### Highlands Council Municipal Project Review Digital Plan Submission Standards

#### **Purpose**

To facilitate project review by the Highlands Council, a submittal of digital mapping files is required. This specific requirement exists in addition to the submission of other required material, such as reports or correspondence, as specified in *Application for Consistency Determination*. The objective is to obtain relevant development plan information, in a digital format, to expedite staff review when using Highlands Council digital data.

#### **Transmittal**

For the initial submission, all files shall be submitted on a CD or DVD. An email submittal may also occur to expedite review, but does not waive the CD/DVD requirement. Subsequent revisions or amendments may be submitted via email.

#### **Requirements**

The following information shall be submitted in the digital formats, as noted below. Where a Geographical Information System (GIS) shapefile format (.shp) is specified, all files must be ESRI-compatible and geo-referenced using the New Jersey State Plane Coordinate System. The batch export of an entire CAD file containing extraneous layers (e.g., survey points) is not acceptable. The relevant layers must be exported into individual shapefiles containing the required information, as noted below.

- 1) A complete plan set shall be submitted as a single file in the most recent version of Adobe Acrobat® (.pdf) format, with each plan sheet representing a page within the document; and
- 2) A shapefile shall be submitted showing the limits of site disturbance, including both temporary and permanent disturbances; and
- 3) A shapefile shall be submitted showing the full extent of proposed development (inclusive of building footprints, roadways, stormwater infrastructure, and utility infrastructure); and
- 4) A shapefile shall be submitted indicating existing parcel boundaries and proposed lot line adjustment or subdivisions (if any).
- 5) Projects that will disturb less than two (2) acres and will create less than one (1) acre of net impervious surface may be submitted as geo-referenced CAD files in lieu of the ESRI Shape files.

If you should have any questions regarding these standards, please contact the Highlands Council at:  
(908) 879-6737

# PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

## APPENDIX C DEFINITIONS

**Control** - Power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee a property or properties and shall include a contract purchaser.

**Highlands Brownfield** – Any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been, a discharge or contaminant that has received a Highlands brownfield site designation from the NJDEP pursuant to N.J.A.C. 7:38-6.6. There are three tracks identified by the NJDEP under which a site may be designated as a Highlands Brownfield, provided that the contamination onsite is not the result of a current or previous agricultural use:

1. Track One addresses sanitary landfill sites;
2. Track Two addresses sites that have already met the NJDEP remediation requirements and legally disturbed areas as of August 10, 2004; and
3. Track Three addresses sites with suspected or confirmed onsite contamination that have not yet received a No Further Action letter.

**Highlands Preservation Area Approval** – A Highlands Preservation Area Approval (HPAA) means a permit from the NJDEP to engage in a regulated activity in the Highlands Preservation Area issued pursuant to the Highlands Act (N.J.A.C. 7:38).

**Highlands Preservation Area Approval with Redevelopment Waiver** – The Highlands Act features a provision that may allow for a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the Preservation Area. A redevelopment waiver applies when a site is a NJDEP Highlands brownfield-designated site (N.J.A.C. 7:38-6.6) or when the Highlands Council identifies a site at which at least 70 percent of the area thereof is covered with impervious surface (N.J.A.C. 7:38-6.7). Thus, an applicant must obtain a *Highlands Preservation Area Approval with Redevelopment Waiver*.

**Highlands Redevelopment Area** – Means land areas designated as such by the Highlands Council that are brownfields, grayfields, and/or other previously developed areas within the Highlands Region (Highlands Regional Master Plan).

**Impervious Surface** – Any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes, but is not limited to, porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements (C.13:20-3).

# PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

## APPENDIX D MODEL NOTICE REGARDING MUNICIPAL APPLICATION FOR HIGHLANDS REDEVELOPMENT AREA

### **Proposed Municipal Application for a Highlands Redevelopment Area Designation**

**Please take notice** that the [Borough/Township/Town of municipality name] is proposing to adopt a resolution authorizing the submission of an application to the Highlands Council, approval of which would designate a Highlands Redevelopment Area consisting of the following municipal properties:

#### **[Insert Project Name, Parcels List]**

Highlands Redevelopment Area designation will permit additional development within the boundaries of the designated area, to a limited extent. The additional development permitted is based on the total impervious coverage already existing within the area. Information on the process and criteria for Highlands Council designation of a Highlands Redevelopment Area is publicly available on the Highlands Council website at: \_\_\_\_\_. The process requires amendment of the municipal Master Plan, which will entail consideration by the municipal [Planning/Land Use] Board, a determination of consistency of the amendment with the goals and objectives of the Master Plan, and holding of a noticed public hearing during which such amendment will be considered.

Information specific to the proposed [municipality name] Highlands Redevelopment Area is available in the office of the Municipal Clerk, located at [street address], during regular business hours [Monday-Friday, 9am-5pm], excluding holidays.

The Governing Body will discuss and provide preliminary information on the proposed Highlands Redevelopment Area designation, and will consider the aforementioned resolution at its regularly scheduled public meeting, to be held on [date] at [time] in the [municipal building or other] located at [street address].

# PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

## APPENDIX E MODEL MUNICIPAL RESOLUTION

### RESOLUTION **[Insert Res #]** **[MUNICIPALITY NAME]**

#### AUTHORIZING SUBMISSION OF A PETITION TO THE HIGHLANDS COUNCIL FOR DESIGNATION OF HIGHLANDS REDEVELOPMENT AREA **[Insert Project Name]**

**WHEREAS**, **[MUNICIPALITY NAME]** is located in the Highlands Region with lands lying within the **[Preservation and/or Planning Area]**, as defined by the Highlands Water Protection and Planning Act (Highlands Act) (N.J.S.A. 13:20-1 et seq.); and

**WHEREAS**, the Highlands Act, at N.J.S.A. 13:20-10.b.(7) and N.J.S.A. 13:20-10.c.(8), establishes as a goal of the Highlands Regional Master Plan (RMP), the promotion of brownfield remediation and redevelopment in both the Highlands Preservation and Planning Area; and

**WHEREAS**, the Highlands Act, at N.J.S.A. 13:20-9.b. and N.J.S.A. 13:20-11.a.(6)(h), specifies that in preparing the Highlands Regional Master Plan (RMP), the Highlands Water Protection and Planning Council (Highlands Council) may, in conjunction with municipalities in the Preservation Area, identify areas in which redevelopment shall be encouraged and shall identify areas appropriate for redevelopment in order to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the Preservation Area and the Highlands Act, with the rules and regulations adopted by the Department of Environmental Protection (NJDEP), and any area so identified for possible redevelopment shall be either a brownfield site designated by the NJDEP or a site at which at least 70% of the area thereof is covered with impervious surface; and

**WHEREAS**, the Highlands Act, N.J.S.A. 13:20-33.b.(2), authorized NJDEP to grant a waiver of any provision of a Highlands permitting review on a case-by-case basis for redevelopment in certain previously developed areas in the Preservation Areas identified by the Highlands Council pursuant to Section 9.b. or Section 11.a.(6)(h); and

**WHEREAS**, the NJDEP had adopted rules at N.J.A.C. 7:38-1.1 et seq. (Highlands Rules) governing the NJDEP's review of projects in the Preservation Area of the Highlands Region; and

**WHEREAS**, the Highlands Rules, at N.J.A.C. 7:38-6.4, specify that as provided in Highlands Act, the NJDEP may waive any provision of the rules for redevelopment in certain previously developed areas in the Preservation Area identified by the Highlands Council pursuant to the Highlands Act; and

**WHEREAS**, the Highlands Act has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

**WHEREAS**, the Highlands Council prepared and adopted Procedures for Highlands Redevelopment Areas Designation (Procedures); and

**WHEREAS**, the **[MUNICIPALITY NAME]** Governing Body has examined the Procedures, understands the purposes and goals of the Highlands Act and the RMP with respect to Highlands

## PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION

Redevelopment Area designations, has considered such designation for a specific area of the municipality as outlined below, and has determined that Highlands Redevelopment Area designation of this portion of the municipality would be consistent with both the Highlands Act and the RMP; and

**WHEREAS**, the [MUNICIPALITY NAME] [Planning/Land Use Board] will, as a part of the process of Highlands Redevelopment Area designation, be charged with evaluating a proposed amendment to the municipal master plan to establish the designated area, which amendment will be adopted by the Board only if it first determines that such amendment is consistent with and furthers the goals of the municipal master plan, advances the purposes of local zoning, and is of no detriment to the public good; and

**WHEREAS**, [MUNICIPALITY NAME] thus intends to submit an application to the Highlands Council seeking designation of a Highlands Redevelopment Area, said Area to include specifically the parcel(s) designated by the municipal Tax Map as: Block(s) [#] and Lot(s) [#], together forming a contiguous area located [DESCRIPTION, e.g., at the intersection of or fronting on X street(s)], as depicted in the attached exhibit; and

**WHEREAS**, the designation of the Highlands Redevelopment Area could affect the development potential of the properties located within its designated boundary, some potentially being restricted from future expansion of developed impervious surface area; and

**WHEREAS**, all the owners of all properties located wholly or partially within this proposed Highlands Redevelopment Area have been provided notice from the [MUNICIPALITY NAME], that the municipal Governing Body proposes to adopt this resolution authorizing submission of a Petition for Highlands Redevelopment Area designation to the Highlands Council; and

**WHEREAS**, any such designation of a Highlands Redevelopment Area will be conducted at a duly notice public hearing of the Highlands Council.

**NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body of the [BOROUGH/TOWNSHIP/TOWN OF MUNICIPALITY NAME] hereby authorizes the Mayor/Administrator of the municipality to prepare, execute and submit to the Highlands Council, all documents as required to constitute a complete Petition seeking designation of a Highlands Redevelopment Area for the specific portion of the municipality as described herein (above) and illustrated in the exhibit attached and made herewith an integral part of this resolution.

### CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the [MUNICIPALITY NAME] at its meeting held on the [day #]<sup>th</sup> day of [month], [year].

**PROCEDURES FOR HIGHLANDS REDEVELOPMENT AREA DESIGNATION**

**APPENDIX F  
MODEL NOTICE OF HIGHLANDS COUNCIL PUBLIC MEETING**

**NOTICE SHALL BE PUBLISHED NO LATER THAN THIRTY (30) DAYS BEFORE  
THE HIGHLANDS COUNCIL MEETING**

**NOTICE OF APPLICATION FOR  
HIGHLANDS REDEVELOPMENT AREA DESIGNATION**

PLEASE TAKE NOTICE that \_\_\_\_\_ (Applicant's name) is applying to the New Jersey Highlands Water Protection and Planning Council for a Highlands Redevelopment Area Designation for the following Property:

\_\_\_\_\_  
(Street address(es) of property)

\_\_\_\_\_  
(Block(s) and lot(s) of property)

\_\_\_\_\_  
(Municipality and County)

The applicant is proposing to (provide description of proposed area & development plan):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Highlands Council staff has prepared a draft Consistency Determination report regarding the above-referenced project. The report and other associated information is available for public review at the Highlands Council offices, 100 North Road, Chester, NJ, or online at: <https://www.nj.gov/njhighlands/projectreview/>.

This application will be considered during a Highlands Council public meeting to be held at 4 p.m. on \_\_\_\_\_ (date) at the Highlands Council offices located at 100 North Road, Chester, NJ. During the meeting, the Highlands Council will provide opportunity for public comment on the proposed Highlands Redevelopment Area designation and, provided the Council finds that sufficient information has been made available and that it is fully prepared to do so, will consider adoption of a resolution memorializing any action taken on the application. All documentation associated with the subject application is available for inspection at the Highlands Council offices during regular business hours by appointment (call (908) 879-6737).